

Notice of Allowability

Application No.

09/608,585

Examiner

Joseph D. Anthony

Applicant(s)

WALLICK ET AL.

Art Unit

1714

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 1, 4-6, 16 [renumbered as 1-5].
3. ☒ The drawings filed on 30 June 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

Joseph D. Anthony
Primary Examiner
Art Unit: 1714

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dragan J. Karadzic on 01/20/04.

The application has been amended as follows:

Claim 1 (amended) A method for viscosity [control] reduction in [an] a highly concentrated alkyl diphenyl oxide sulfonic acid blend comprising the step of:

admixing a fatty acid having a carboxylic chain length between 1 and 12 carbon atoms into the highly concentrated alkyl diphenyl oxide sulfonic acid blend to provide between about 5 weight percentage and about 50 weight percentage of fatty acid in the admixture, with the proviso that said highly concentrated alkyl diphenyl oxide sulfonic acid blend is present from 44 to 95 weight percentage in said admixture.

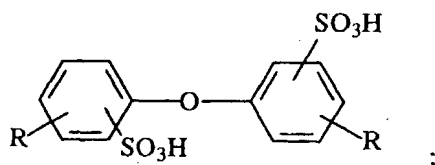
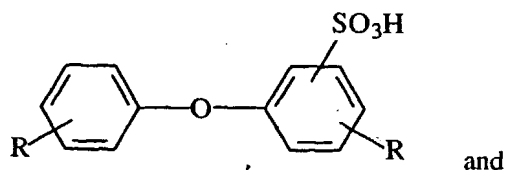
In claim 4, line 1, delete the word "an" and insert therefore --a modified highly concentrated--.

In claim 4, line 7, after the word "with" insert --44 to 95 wt. % of--.

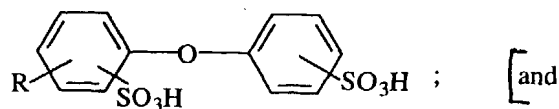
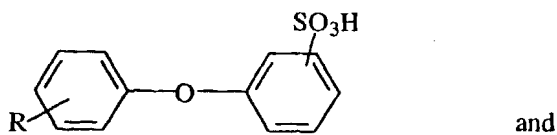
In claim 5, line 2, delete the word "admixed".

Claim 6 (amended) The method of either Claims 4 or 5 wherein the alkyl diphenyl oxide sulfonic acid blend prior to admixing of said fatty acid comprises:

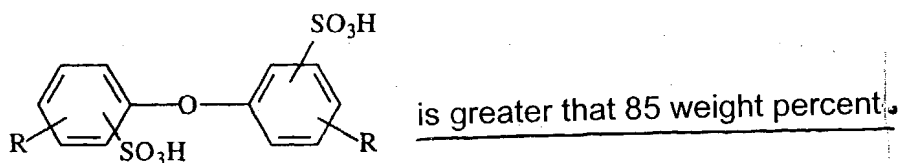
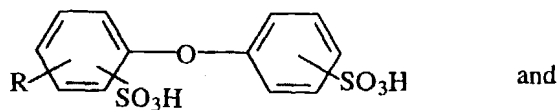
between about 5 to about 25 weight percent



between about 75 to about 95 respective weight percent



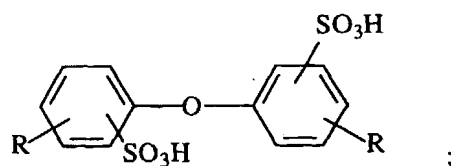
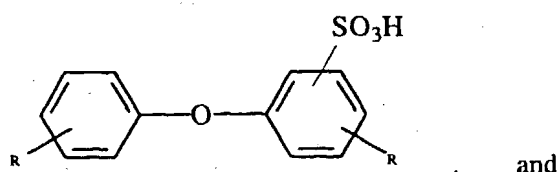
greater than 85 weight percent] with the proviso that the combined concentration of



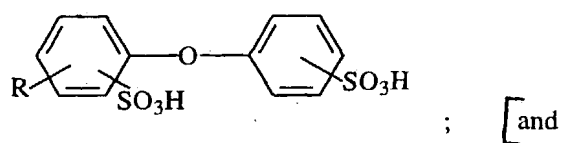
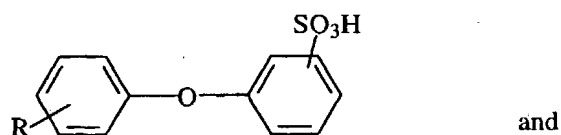
Claim 16 (amended) A method for preparation of a surfactant comprising the steps of:

admixing a fatty acid selected from the group consisting of formic acid, acetic acid, propionic acid, butanoic acid, pentanoic acid, valeric acid, hexanoic acid, heptanoic acid, octanoic acid, nonanoic acid, decanoic acid, undecanoic acid, dodecanoic acid to provide between about 5 weight percentage and about 50 weight percentage of fatty acid in admixture with 44 to 95 weight percentage of an alkyl diphenyl oxide sulfonic acid blend comprising

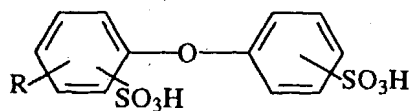
between about 5 to about 25 weight percent



between about 75 to about 95 respective weight percent

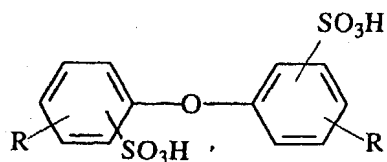


greater than about 85 weight percent] with the proviso that the combined concentration of



and

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; is greater than 85 weight percent;

blending the sulfonated admixture into water; and

neutralizing the blend of water and sulfonated admixture;

where R is an alkyl radical having between 6 and 16 carbon atoms.

Non-elected claims 2-3, and 7-15 have been canceled.

2. The following is an examiner's statement of reasons for allowance:

The reasons for amending the independent claims to require a --44 to 95 wt. % of -- alkyl diphenyl oxide sulfonic acid blend is because: 1) such is clearly needed for the claims to be commensurate in scope with the disclosed invention, see "BACKGROUND OF THE INVENTION" section of applicant's specification, also see page 7, line 19 to page 8, line 16 of applicant's specification, also see all the examples of applicant's specification especially lines 40-41 of Example 2 for the lower concentration limit of 44 wt. %, and 2) examiner has found prior art references that disclose compositions comprising C1-12 fatty acids in admixture with DOWFAX surfactants and other adjuvants. Nevertheless, these said prior-art references disclose compositions wherein the concentrations of the fatty acid(s) or DOWFAX surfactants or both are well outside of the applicant's claimed concentration ranges. Examples of such prior-art references are as followed:

A) Applicant's cited Article entitled: Supersolubilization in Mono- and Dialkyl Diphenyloxidedisulfonate Solutions, which teaches a composition made from mixing hexyldecyl diphenyl oxide disulfonate, 2.3% by weight octanoic acid, and AOT cosurfactant. There is no disclosure of any kind to increase the octanoic acid concentration to fall within applicant's claimed concentration range.

B) Bishop et al. U.S. Patent Number 4,135,878 teaches emulsifiers-solvent scour composition and methods of treating textiles therewith. The taught compositions comprise mixing 1 to 10% of at least one C8-C24 carboxylic acid or salt thereof, and 4 to 20% of a component that may be a sulfonated alkyl diphenyl oxide or salts thereof, see abstract, column 4, lines 56-63 and column 5, lines 50-60. There is no disclosure of any kind to increase the concentration of the sulfonated alkyl diphenyl oxide or salts thereof component to fall within applicant's claimed concentration range.

C) Wilmore U.S. Patent Number 4,581,042 teaches compositions for removing hard-water build-up that comprise: 1) an abrasive, 2) 4 to 70% by weight of an acid which may be an organic acid such as acetic acid or formic acid, 3) 0.1 to 12.0% of a surfactant preferably DOWFAX, 4) suspending agent, and 5) water, see the abstract, Example and column 2, lines 5-63. There is no disclosure of any kind to increase the concentration of the DOWFAX component to fall within applicant's claimed concentration range.

D) Puritch et al. U.S. patent Number 5,106,410 teaches fatty acid based herbicidal compositions that comprise a surfactant, such as DOWFAX. Table II teaches concentrated compositions that comprise 80% fatty acid in combination with 10% DOWFAX and 10% of cosurfactant. There is no disclosure of any kind to decrease the concentration of the fatty acid component within the concentrated composition such that it fall within applicant's claimed concentration range. Likewise there is no disclosure of any kind to increase the concentration of the DOWFAX component to fall within applicant's claimed concentration range.

E) Herdt et al. U.S. Patent Number 6,121,219 teaches antimicrobial acid cleaner for use on organic or food soil that comprises in part: 1) DOWFAX at 6%, 2) C10 fatty acid at 1%, and 3) hydroxy acetic acid at 6%, see the abstract, column 3, lines 20-33 and Table 1. There is no disclosure of any kind to increase the concentration of the DOWFAX component to fall within applicant's claimed concentration range.

F) Savage et al. U.S. Patent Number 5,366,995 teaches fatty acid based composition for the control of established plant infections. The patent discloses a commercial product called SHARPSHOOTER that comprises 80% pelargonic acid, 2% DOWFAX and 18% of a cosurfactant. There is no disclosure of any kind to decrease the concentration of the fatty acid component within the concentrated SHARPESHOOTER composition such that it fall within applicant's claimed concentration range. Likewise there is no disclosure of any kind to increase the concentration of the DOWFAX component to fall within applicant's claimed concentration range.

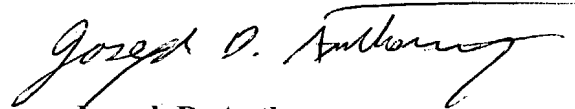
All other proposed examiner amendments, outside of canceling the non-elected claims, are made to overcome serious 35 USC 112 2nd Paragraph issues and are not meant to narrow the scope of the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Examiner Information

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. This examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 6:30 p.m. in the eastern time zone.



Joseph D. Anthony
Primary Patent Examiner
Art Unit 1714.

1/20/04